



Chairman Ajit Pai
Commissioner Mignon Clyburn
Commissioner Michael O’Rielly

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

In the Matter of Policies Regarding Restoring Internet Freedom

Re: WC Docket No. 17-108

May 25, 2017

Dear Chairman Pai and Commissioners Clyburn and O’Rielly:

Rick Boucher, who was a Democratic member of the U.S. House for 28 years and chaired the House Energy and Commerce Committee's Subcommittee on Communications and the Internet, is Honorary Chairman of the Internet Innovation Alliance. Congressman Boucher recently penned an opinion piece for *Bloomberg BNA* on the need for congressional intervention in the net neutrality debate. As captured by the news source:

In the absence of definitive legislation on the issue, the net neutrality debate has produced partisan regulatory swings that inhibit investment by broadband providers. The author, a former U.S. Representative, urges the Congress to enact legislation reinstating the light-touch regulatory regime in place until 2015 and establishing a sense of permanence that would build investor confidence in the broadband market.

In light of the Federal Communications Commission issuing its Notice of Proposed Rulemaking that would “propose to restore the Internet to a light-touch regulatory framework by classifying broadband Internet access service as an information service and by seeking comment on the existing rules governing Internet service providers' practices,” we file the enclosed document (an opinion piece by Rick Boucher for *Bloomberg BNA*, “Net Neutrality: Ending the Game of Political Soccer”) for inclusion in Docket 17-108, “Restoring Internet Freedom.”

We look forward to further participation in this docket.



Sincerely,

A handwritten signature in black ink that reads "Rick Boucher". The signature is written in a cursive style with a large, stylized "R" and "B".

Rick Boucher
Former Congressman (D-VA) and Honorary Chairman, Internet Innovation Alliance

A handwritten signature in black ink that reads "Bruce Mehlman". The signature is written in a cursive style with a large, stylized "B" and "M".

Bruce Mehlman
Co-Chairmen, Internet Innovation Alliance

A handwritten signature in black ink that reads "Jamal Simmons". The signature is written in a cursive style with a large, stylized "J" and "S".

Jamal Simmons



Bloomberg BNA

May 16, 2017

The Need for Congressional Intervention in the Net Neutrality Debate

In the absence of definitive legislation on the issue, the net neutrality debate has produced partisan regulatory swings that inhibit investment by broadband providers. The author, a former U.S. Representative, urges the Congress to enact legislation reinstating the light-touch regulatory regime in place until 2015 and establishing a sense of permanence that would build investor confidence in the broadband market.

Net Neutrality: Ending the Game of Political Soccer



By Rick Boucher

Rick Boucher was a member of the US House for 28 years and chaired the House Energy and Commerce Committee's Subcommittee on Communications and the Internet. He is honorary chairman of the Internet Innovation Alliance (IIA) and head of the government strategies practice at the law firm Sidley Austin. "Net neutrality" is back on the political agenda. It never really went away, of course, but new FCC Chairman Pai's recent actions have brought it to prominence once again.

Net neutrality is important for our broadband future, and so is a sufficient level of investment to ensure that our digital infrastructure keeps up with the ever-growing demand for Internet access, particularly mobile data.

Utility-Style Regulation

Remember that back in 2015, the FCC under former Chairman Wheeler reclassified broadband to treat it as a 1930s common-carrier service—a "Title II



service,” in Communications Act terms—rather than as an “information service,” the status it had enjoyed since the Clinton administration. Mr. Wheeler's action reversed decades of FCC practice under the old rules, when investment in broadband flourished. Now, broadband providers face the same rules that governed monopoly telephone service from a bygone era. That's what reclassification means.

Title II gives the FCC broad authority to set prices, terms and conditions. Not knowing what new requirements and restrictions will be imposed on them next, broadband providers today face a high level of regulatory uncertainty, as a result of which network investment has [declined](#) over the past two years.

Alternatives to Title II Regulation

Supporters of reclassification rely on a crucial—and mistaken—assumption: that net neutrality guarantees can only be achieved by treating broadband as a telephone service. That's just not right.

An earlier version of FCC net neutrality guarantees, adopted in 2010 by the FCC under Julius Genachowski, President Obama's first FCC Chairman, did not rely on “Title II” classification, yet protected both openness on and investment in the internet. At the time, I chaired the House Communications Subcommittee and joined with other Democrats in applauding the FCC for its strong stand for net neutrality.

Why Congress Needs to Act

Congress should provide a permanent statutory solution to a debate that has now raged for over a decade. A simple win would codify the strong net neutrality assurances contained in Chairman Genachowski's 2010 rule and declare that broadband is a Title I information service, returning it to the lightly regulated status it enjoyed since the Clinton administration.

Without Congressional intervention, net neutrality policy will continue in an endless back-and-forth. Every party change at the White House will produce an FCC that shifts net neutrality rules to its favored terms. One can foresee a never-ending shuttle between Title I and Title II, causing carriers, not knowing what will come next, to hold back needed infrastructure investments. There's also no assurance that each regulatory change will maintain the net neutrality guarantees on which internet users rely.

Like so many issues in Washington these days, it's political football or political ping-pong. Actually, the best analogy may be political soccer—each side trying to



kick the ball as far towards the other team's goal as possible, and the teams running frantically in that direction. But the need for net neutrality guarantees and the need for broadband investment are too important to be treated like a sport.

This really should be the ultimate non-issue, and an unusually solid candidate for bipartisan legislating. Respect for net neutrality along the lines of the FCC's 2010 order is now commonplace among broadband providers. It has been fully integrated into their business operations, and Internet content providers rely on that openness in order to reach their customers.

The Genachowski rule achieved the ideal balance: strong network neutrality guarantees along with investment-enhancing Title I information service status for broadband. Congress can now achieve that balance with statutory permanence and at last put to rest the most contentious Internet policy debate of the last decade. Edge providers, carriers and Internet consumers deserve no less.

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